## REMARKS

**Claim Objections:**

Paragraph 2 of the Office Action objects to claim 50 for the informality: the word "tan" does not make sense. Applicants have amended claim 50 above to correct this error, deleting the "t" in "tan" and leaving the correct word "an" in the claim. The Advisory Action indicates that the amendment would overcome the objection in an entered amendment; accordingly, Applicants respectfully request withdrawal of the objection.

The Advisory Action indicates that the word "fit" was not changed to --if-- as stated in the arguments for claim 48 in the response mailed August 8, 2005. Applicants have amended claim 48 above to correct this error. Accordingly, Applicants respectfully request withdrawal of the objection.

**Claim Rejections Under §103:**

Paragraph 8 of the Office Action rejects claims 1, 6 and 43 under 35 U.S.C. 103(a) as being obvious in view of Hammond in further view of Antonious (U.S. Patent No. 5,916,041). Applicants respectfully traverse the rejection because Hammond and Antonious, alone or in combination, fail to teach, suggest, or disclose all elements of the claims for at least the reasons described below. In particular, the references, alone or combined, do not teach combining swing data with information related to a golfer's current swing in order to derive swing parameters for use in fitting a golfer with golf equipment including optimizing a launch angle, velocity and spin rate based on the derived swing parameters.

Accordingly, the Office Action fails to make out a *prima facie* case of obviousness. To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of

success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)." (*See* MPEP §706.02(j)).

In this instance, the references used to reject claim 1 fail to meet all three of these requirements. First, the references fail to teach each and every claim limitation. The Office Action admits that Hammonds does not teach the limitation in claim 1 of determining swing information related to a golfer's current swing, combining the determined swing information with swing data to derive swing parameters for use in fitting a golfer with equipment. Accordingly, Hammonds cannot render claim 1 unpatentable.

Antoniuos is directed to a golf club head with outer peripheral waiting (See the Title). Antoniuos is not directed to systems and methods for measuring swing data and combining it with swing information related to a golfer's current swing in order to derive swing parameters. Accordingly, Antonious cannot render claim 1 upatentable.

Moreover, Hammond combined with Antonious cannot render claim 1 unpatentable, because neither reference teaches, suggest, or discloses determining swing information related to a golfer's current swing, combining the determined swing information with swing data to derive swing parameters for use in fitting a golfer with equipment, which is an express limitation of claim 1. Thus, Hammonds and Antonious, alone or in combination, fail to teach, suggest, or dislose each and every element of claim 1 as required to sustain a *prima facia* case of obviousness.

Second, the Advisory Action states that it is proper to combine the references, but, regardless, the combined references do not teach each and every element as described above.

Third, the Office Action makes no attempt to provide a likelihood of success and, therefore, combining the two references was improper on that basis alone.

Applicants respectfully assert that claim 1 is allowable because the Office Action fails to make out a *prima facie* case of obviousness for each of the reasons stated above. In addition, however, Applicant has amended claim 1 to indicate that fitting the golfer with golf equipment includes, "optimizing a launch angle, velocity and spin rate based on the derived swing

parameters." Applicants respectfully asserts that neither Hammonds or Antonious, alone or in combination, teach this additional limitation.

Because the Office Action fails to make a *prima facie* case of obviousness, Applicant respectfully request that the rejection be withdrawn as to claims 1. Claims 6 and 43 depend from allowable claim 1 and are allowable for at least the reasons discussed above. Applicants, therefore, respectfully request withdrawal of the rejection as to claims 6 and 43.

Paragraph 9 of the Office Action rejects claims 1-8, 45-46, 48 and 50 under 35 U.S.C. 103(a) as being obvious in view of Hammond in further view of Naruo (U.S. Patent No. 5,821,417). Applicants respectfully traverse the rejection because Hammond and Naruo, alone or in combination, fail to teach, suggest, or disclose all elements of the claims for at least the reasons described below.

With respect to claim 1, the Office Action again admits that Hammond does not teach each and every element of the claims as described above. In addition, the Office Action admits that Naruo does not teach each and every element of claim 1. Thus, the Office Action fails to make out a *prima facie* case of obviousness, because neither Hammond or Naruo, alone or in combination teach, suggest, or, disclose each and every element of claim 1. In particular, the references, alone or combined, do not teach combining swing data with information related to a golfer's current swing in order to derive swing parameters for use in fitting a golfer with golf equipment including optimizing a launch angle, velocity and spin rate based on the derived swing parameters. Further, the Advisory Action states that it is proper to combine the references, but, regardless, the combined references do not teach each and every element as described above.

Applicants respectfully assert that claim 1 is allowable because the Office Action fails to make out a *prima facie* case of obviousness for each of the reasons stated above. In addition, however, Applicant has amended claim 1 to indicate that fitting the golfer with golf equipment includes, "optimizing a launch angle and spin rate based on the derived swing parameters." Applicants respectfully asserts that neither Hammonds or Naruo, alone or in combination, teach this additional limitation.

Because the Office Action fails to make a *prima facie* case of obviousness, Applicant respectfully request that the rejection be withdrawn as to claim 1. Claims 2-8, 45-46, 48 and 50 depend from allowable claim 1 and are allowable for at least the reasons discussed above. Applicants, therefore, respectfully request withdrawal of the rejection as to claims 2-8, 45-46, 48 and 50.

Applicant request withdrawal of the rejection as to claim 48 for the further reason that the Office Action admits that neither reference teaches a baseline performance matrix as required by this claim.

Paragraph 10 of the Office Action rejects claims 1, 6 and 41 under 35 U.S.C. 103(a) as being obvious in view of Hammond in further view of Nauck (U.S. Patent No. 5,616,832). Applicants respectfully traverse the rejection because Hammond and Nauck, alone or in combination, fail to teach, suggest, or disclose all elements of the claims for at least the reasons described below.

As for claim 1, Hammond cannot render these claims unpatentable, because Hammond does not teach each and every element of the claims as described above. Accordingly, the Office Action must rely on Nauck to make up for the deficiencies of Hammond. Nauck cannot make up for these deficiencies, however, because Nauck also fails to teach, suggest, or disclose, determining swing information related to a golfer's current swing and combining swing information with swing data to derive swing parameters for use in fitting a golfer with equipment including optimizing a launch angle, velocity and spin rate based on the derived swing parameters as claimed in claim 1.

Second, the Advisory Action states that it is proper to combine the references, but, regardless, the combined references do not teach each and every element as described above.

Applicants respectfully assert that claim 1 is allowable because the Office Action fails to make out a *prima facie* case of obviousness for each of the reasons stated above. In addition, however, Applicant has amended claim 1 to indicate that fitting the golfer with golf equipment includes, "optimizing a launch angle and spin rate based on the derived swing parameters."

Applicants respectfully assert that neither Hammonds or Nauck, alone or in combination, teach this additional limitation.

Because the Office Action fails to make a *prima facie* case of obviousness, Applicant respectfully request that the rejection be withdrawn as to claim 1. Applicants, therefore, respectfully request withdrawal of the rejection as to claim 1. Claims 6 and 41 depend from allowable claim 1 and are allowable for at least the reasons discussed above. Applicants, therefore, respectfully request withdrawal of the rejection as to claims 6 and 41.

Paragraph 11 of the Office Action rejects claims 1, 6 and 41 under 35 U.S.C. 103(a) as being obvious in view of Hammond in further view of Sayers (U.S. Patent No. 5,616,832). Applicants respectfully traverse the rejection because Hammond and Sayers, alone or in combination, fail to teach, suggest, or disclose all elements of the claims for at least the reasons described below.

The Office Action is again relaying on Sayers to make up for the deficiencies of Hammond. But as with Antonious, Narou, and Nauck, Sayers fails to teach suggest or disclose determining swing information related to a golfer's current swing and combining swing information with swing data to derive swing parameters for use in fitting a golfer with equipment including optimizing a launch angle, velocity and spin rate based on the derived swing parameters as claimed in claim 1. In order to support a *prima facie* case of obviousness at least one reference must teach determining swing information related to a golfer's current swing and combining the swing information with swing data to derive swing parameters for use in fitting a golfer with equipment as claimed in claim 1. None of the references cited so far teach this limitation and neither does Sayers.

Moreover, the Advisory Action states that it is proper to combine the references, but, regardless, the combined references do not teach each and every element as described above.

Applicants respectfully assert that claim 1 is allowable because the Office Action fails to make out a *prima facie* case of obviousness for each of the reasons stated above. In addition, however, Applicant has amended claim 1 to indicate that fitting the golfer with golf equipment includes, "optimizing a launch angle and spin rate based on the derived swing parameters."

Applicants respectfully assert that neither Hammonds or Sayers, alone or in combination, teach this additional limitation.

Because the Office Action fails to make a *prima facie* case of obviousness, Applicant respectfully request that the rejection be withdrawn as to claim 1. Applicants, therefore, respectfully request withdrawal of the rejection as to claim 1. Claims 6 and 41 depend from allowable claim 1 and are allowable for at least the reasons discussed above. Applicants, therefore, respectfully request withdrawal of the rejection as to claims 6 and 41.

Paragraph 12 of the Office Action rejects claims 1, 6 and 41 under 35 U.S.C. 103(a) as being obvious in view of Hammond in further view of Mann (U.S. Patent No. 5,616,832). Applicants respectfully traverse the rejection because Hammond and Mann, alone or in combination, fail to teach, suggest, or disclose all elements of the claims for at least the reasons described below.

Again, Mann cannot make up for the deficiencies of Hammond because Mann fails to teach, suggest, or disclose determining swing information related to a golfer's current swing, combining swing information with swing data to derive swing parameters for use in fitting a golfer with equipment including optimizing a launch angle, velocity and spin rate based on the derived swing parameters as claimed in claim 1. Accordingly, the Office Action fails to make out a *prima facie* case of obviousness with respect to claim 1.

Applicants respectfully assert that claim 1 is allowable because the Office Action fails to make out a *prima facie* case of obviousness for each of the reasons stated above. In addition, however, Applicant has amended claim 1 to indicate that fitting the golfer with golf equipment includes, "optimizing a launch angle and spin rate based on the derived swing parameters." Applicants respectfully assert that neither Hammonds or Mann, alone or in combination, teach this additional limitation.

Because the Office Action fails to make a *prima facie* case of obviousness, Applicant respectfully request that the rejection be withdrawn as to claim 1. Applicants, therefore, respectfully request withdrawal of the rejection as to claim 1. Claims 6 and 41 depend from

allowable claim 1 and are allowable for at least the reasons discussed above. Applicants, therefore, respectfully request withdrawal of the rejection as to claims 6 and 41.

Paragraph 13 of the Office Action rejects claim 47 under 35 U.S.C. 103(a) as being obvious in view of Hammond in further view of Sayers as applied to claims 1, 6, 42 and 45 above, and further in view of Cervantes. Applicants respectfully traverse the rejection because Hammond Sayers and Cervantes, alone or in combination, fail to teach, suggest, or disclose all elements of the claims for at least the reasons described below.

Claim 47 ultimately depends from allowable claim 1 and is allowable for at least the reasons discussed above with Unless Cervantes can make up for the deficiencies of Hammond and Sayers, which it cannot. Accordingly, Applicant respectfully requests withdrawal of the rejection as to claim 47.

Applicant request withdrawal of the rejection for the further reason that Cervantes discloses a "golf club point of impact and relative club velocity indicator" that records the "relative velocity and location at which the head of a golf club impacts a golf ball," nothing in Cervantes, Hammond, or Sayers teaches that swing flaws should be corrected prior to fitting as disclosed and claimed in claim 47. Applicants, therefore, respectfully request withdrawal of the rejection as to claim 47.

The Advisory Action states that "Cervantes teaches...correcting any flaws." The Advisory Action further states that correcting swing flaws is an "obvious step." The swing instruction required to correct swing flaws for fitting is anything but "obvious." The swing instruction is completed by trained golf professionals who have completed a great deal of training that enables them to spot swing flaws and provide the swing instruction necessary to correct those swing flaws. Additionally, the Advisory Action, further states that "Cervantes does not provide swing instruction." Swing instruction is required to correct swing flaws. Since no instruction is provided by Cervantes, Cervantes cannot teach correcting swing flaws as disclosed and claimed in claim 47. Nothing in Cervantes, Hammond, or Sayers teaches that swing flaws should be corrected prior to fitting as disclosed and claimed in claim 47.

Paragraph 14 of the Office Action rejects claim 49 under 35 U.S.C. 103(a) as being obvious in view of Hammond in further view of Naruo as applied to claims 1-8, 45-46, 48 and 50 above, and further in view of Cervantes. Applicants respectfully traverse the rejection because Hammond, Naruo and Cervantes, alone or in combination, fail to teach, suggest, or disclose all elements of the claims for at least the reasons described below.

Claim 49 ultimately depends from allowable claim 1 and is allowable for at least the reasons discussed above unless Cervantes can make up for the deficiencies of Hammond and Naruo, which it cannot. Accordingly, Applicant respectfully requests withdrawal of the rejection as to claim 49.

Applicant request withdrawal of the rejection for the further reason that Cervantes does not teach "providing swing instruction" as claimed in claim 49. Cervantes teaches providing "the golfer with information indicating that his golf swing technique was not properly executed" based on marks made at the point of impact, not providing swing instruction. Applicants, therefore, respectfully request withdrawal of the rejection as to claim 49.

Further, the Advisory Action admits that Cervantes does not teach "providing swing instruction." Since the Advisory Action agrees that Cervantes does not teach "providing swing instruction" claim 49 is allowable. Applicants, therefore, respectfully request withdrawal of the rejection as to claim 49.

Paragraph 15 of the Office Action rejects claims 51-52 under 35 U.S.C. 103(a) as being obvious in view of Hammond in further view of Naruo as applied to claims 1-8, 45-46, 48 and 50 above, and further in view of Gobush. Applicants respectfully traverse the rejection because Hammond, Naruo and Gobush, alone or in combination, fail to teach, suggest, or disclose all elements of the claims for at least the reasons described below.

Claims 51-52 ultimately depend from allowable claim 1 and are allowable for at least the reasons discussed above unless Gobush can make up for the deficiencies of Hammond and Naruo, which it cannot. Accordingly, Applicant respectfully requests withdrawal of the rejection as to claims 51-52.

Paragraph 16 of the Office Action rejects claims 26-32, 35, 37-38 and 40 under 35 U.S.C. 103(a) as being obvious in view of Hammond in further view of Naruo and further in view of Examiner's Official Notice. The Advisory Action substitutes Naoi (US 5,459, 793) for the Examiner's Official Notice. Applicants respectfully traverse the rejection because Hammond, Naruo and Naoi, alone or in combination, fail to teach, suggest, or disclose all elements of the claims, as amended, for at least the reasons described below.

Claim 26, as amended includes the limitation of obtaining information based on the launch of a golf ball based on color markings on the golf ball, the color markings comprising at least two colors. Additionally, claim 26 has been amended to include a processor system configured to optimize the launch angle, spin rate, and velocity of a golf ball for a particular golfer based on the received launch information and strain gauge data. Hammond, Naruo and Naoi, alone or in combination, fail to teach, suggest, or disclose these elements of claim 26, as amended.

The Advisory Action submits Naoi to show that it is known to have a color camer. However, claim 26 as amended requires color camera in combination with multiple colors on a golf ball. By using color high-speed cameras and a golf ball with at least two color markings more accurate and more reliable launch data can be obtained as compared to conventional systems that typically use black and white high speed cameras. Further by using color markers less data is needed relative to other types of systems. As stated above, Hammond, Naruo and Naoi, alone or in combination, fail to teach, suggest, or disclose these elements of claim 26, as amended. Accordingly, Applicants respectfully request withdrawal of the rejection as to claim 26.

Paragraph 17 of the Office Action rejects claims 33-34 under 35 U.S.C. 103(a) as being obvious in view of Hammond in further view of Naruo and the Examiner's Official Notice further in view of Kawaguchi. The Advisory Action substitutes Naoi for the Examiner's Official Notice. Applicants respectfully traverse the rejection because Hammond, Naruo, Naoi, and Kawaguchi alone or in combination, fail to teach, suggest, or disclose all elements of the claims for at least the reasons described below.

Claims 33-34 ultimately depend from allowable claim 26 and are allowable for at least the reasons discussed above unless Kawaguchi can make up for the deficiencies described above, which it of course cannot. Accordingly, Applicants respectfully request withdrawal of the rejection as to claims 33-34.

Paragraph 18 of the Office Action rejects claims 36 and 39 under 35 U.S.C. 103(a) as being obvious in view of Hammond in further view of Naruo and the Examiner's Official Notice further in view of Evans. The Advisory Action substitutes Naoi for the Examiner's Official Notice. Applicants respectfully traverse the rejection because Hammond, Naruo, Naoi, and Evans alone or in combination, fail to teach, suggest, or disclose all elements of the claims for at least the reasons described below.

Claims 36 and 39 ultimately depend from allowable claim 26 and are allowable for at least the reasons discussed above unless Evans can make up for the deficiencies described above, which it of course cannot. Accordingly, Applicants respectfully request withdrawal of the rejection as to claims 36 and 39.

Paragraph 19 of the Office Action rejects claims 53-58 under 35 U.S.C. 103(a) as being obvious in view of Hammond in further view of Naruo and the Examiner's Official Notice further in view of Gobush. The Advisory Action substitutes Naoi for the Examiner's Official Notice. Applicants respectfully traverse the rejection because Hammond, Naruo, Naoi, and Gobush alone or in combination, fail to teach, suggest, or disclose all elements of the claims for at least the reasons described below.

Claims 53-58 ultimately depend from allowable claim 26 and are allowable for at least the reasons discussed above unless Gobush can make up for the deficiencies described above, which it of course cannot. Accordingly, Applicants respectfully request withdrawal of the rejection as to claims 53-58.

Claims 33-34 ultimately depend from allowable claim 26 and are allowable for at least the reasons discussed above unless Kawaguchi can make up for the deficiencies described above, which it of course cannot. Accordingly, Applicants respectfully request withdrawal of the rejection as to claims 33-34.

Paragraph 18 of the Office Action rejects claims 36 and 39 under 35 U.S.C. 103(a) as being obvious in view of Hammond in further view of Naruo and the Examiner's Official Notice further in view of Evans. The Advisory Action substitutes Naoi for the Examiner's Official Notice. Applicants respectfully traverse the rejection because Hammond, Naruo, Naoi, and Evans alone or in combination, fail to teach, suggest, or disclose all elements of the claims for at least the reasons described below.

Claims 36 and 39 ultimately depend from allowable claim 26 and are allowable for at least the reasons discussed above unless Evans can make up for the deficiencies described above, which it of course cannot. Accordingly, Applicants respectfully request withdrawal of the rejection as to claims 36 and 39.

Paragraph 19 of the Office Action rejects claims 53-58 under 35 U.S.C. 103(a) as being obvious in view of Hammond in further view of Naruo and the Examiner's Official Notice further in view of Gobush. The Advisory Action substitutes Naoi for the Examiner's Official Notice. Applicants respectfully traverse the rejection because Hammond, Naruo, Naoi, and Gobush alone or in combination, fail to teach, suggest, or disclose all elements of the claims for at least the reasons described below.

Claims 53-58 ultimately depend from allowable claim 26 and are allowable for at least the reasons discussed above unless Gobush can make up for the deficiencies described above, which it of course cannot. Accordingly, Applicants respectfully request withdrawal of the rejection as to claims 53-58.

## CONCLUSION

Two checks totaling the amount of $620 is enclosed for the fees for a Request for Continued Examination and a two month Extension of Time. No additional fees are deemed to be due, however, the Commissioner is hereby authorized to charge any additional fee and/or credit any overpayment to Deposit Account Number 13-0480.

Respectfully submitted,

Dated: 10/13/2005

By: _____
Noel C. Gillespie, Esq.
Registration No. 47,996

BAKER & McKENZIE LLP
2001 Ross Avenue, Suite 2300
Dallas, TX 75201
(619) 235-7753 direct
(214) 978-3099 fax